work, &c. The estimate contains the quantities of each sort of work, and the separate price of each article.

The Civil Code is silent as to the remuneration to be paid to the architect for furnishing such plans and estimates, as it is likewise upon the whole subject of his remuneration. The article 1793, indeed, places the relations between the architect and the proprietor in the condition of a hiring of services (*louage d'ouvrage*). Now in all such cases the consideration may be either a matter for special agreement, or, in default of such, it is regulated by the custom of the locality. Should a written agreement have been made to settle the respective conditions of the contracting parties, and should any new or unforeseen circumstances arise during the execution of the work, these last are regulated by the usual custom, without in any way affecting the previous agreement. It is considered to be the duty of the proprietor to ascertain the existence of these supplementary conditions: the fact of his allowing a commencement of execution, is held to be a tacit acceptance of his own new obligations. In fine, such contracts are regarded as a portion of natural law (*un contrat du droit des gens*), and are not subjected by the civil code to any definite form, to insure their enforcement; they are regulated by the principles of natural equity in all cases where the special agreement, or the text of the law, is silent.

In Paris the usage is to pay 5 per cent. for furnishing the drawings and specifications, for superintending the execution, and settling the accounts for the different works. We are not quite certain as to the subdivision of this sum; but, if we are not mistaken, the furnishing of the drawings and specification only is paid for at the rate of 2½ per cent.; the superintendence at 1½ per cent.; the measuring and settling of the accounts at 1 per cent. of the value of the works; all office expenses, and payments for clerks of the works (!), being at the cost, or charge, of the architect. The large public works are paid for by fixed salaries per annum, to the architects; an allowance is made for office expenses; and the superintendence is paid for separately. We will revert hereafter to the consideration of this system, and its practical results, as also to that of the conditions, implied or expressed, of the agreement between the architect and the proprietor.

When the architect has furnished the plans and specifications, but does not superintend, he becomes responsible to the proprietor for any accident resulting from the indications contained in the said documents; but, of course, his responsibility ceases there. Thus, he is not liable to any damages caused by the bad execution of the works; but only to such as are the necessary consequences of the plans and directions he has given; for example,

Suppose that, from any motive, A. builds by workmen, and superintends, himself, any construction upon the plans and specification of an architect; after having faithfully observed all the details as to the dimensions of the walls, the quality of the materials, &c., if the construction appear likely to fall during the first ten years, either totally or in part, A. has a claim against the architect. Upon his demand, two "experts" are named, who examine whether he has in all cases followed the plans and specifications; and upon their decision, an action may be commenced. Such actions, however, are very rare.

In this case the architect is not responsible for the defects of the soil; he is authorized to presume that it is of a sufficiently resisting nature to support the building. The person who executes the works assumes this risk; whether it be the proprietor who executes, or a contractor. Nor is the architect responsible for any infraction of the laws which regulate the rights of neighbours, or of the municipal or police regulations.

Secondly.—"Of the responsibilities of the architect who directs the constructions after furnishing the plans."

Beyond the legal obligation by which an architect is bound to possess the abilities and instruction necessary for the preparation of the plans and specification, if he be intrusted with the carrying out of his own design, he becomes responsible for the faithful execution of the works; for it is he who undertakes to give the workmen proper instructions as to the kinds of materials to be employed, the manner of using them, and the dimensions of the separate parts. If the builder, or his workmen, deceive him in such a manner as to induce an impartial person to believe that, with proper caution, the architect might have detected the fraud, he naturally becomes responsible; but he has his recourse against the said parties. But if the deceit were of such a nature as to defy ordinary inspection, then he is exonerated, and the responsibility lies only with those who have been guilty of the fraud.

If any part of the building, or the whole of it, fails, within ten years of the completion of the work, either from defective construction, a defect of the foundation, or neglect in the execution, the architect firstly, and subsidiarily the builder, are responsible. Moreover, as nothing of importance ought to be executed without his orders, any infraction of the laws regulating the rights of neighbours, or of the municipal or police regulations, exposes him (the architect) to a claim for damages. Nor, in this case, would the proprietor be obliged to attack anybody but the architect; for it was his duty to superintend the work so closely as to prevent any serious breach of the above-named laws and regulations. These obligations on the part of the architect result clearly from article 1792 of the Civil Code; the duration of the guarantee for ten years is fixed by the art. 2270. The right of a neighbour to attack the proprietor in case of loss, damage, or injury, results from the text of art. 1386. The proprietor then has his recourse against the party he employs.

Thirdly.—"Of the responsibilities of the architect who verifies and settles the accounts."

When an architect has directed the works, he is charged with the settlement of the accounts. If the proprietor pay any money without the certificate of the architect, he, by that fact, releases the latter from his responsibility, for he takes from him the only efficient mode of controlling the execution of the works by the builder. But this release only extends so far as the defects arise from bad execution; if the building fail from improper construction in a purely scientific point of view, the architect is still liable.

"If an architect be merely called in to affix a just value upon works executed, he is only bound to fix such prices as are fair and reasonable, according to the tariff of the locality, and according to the qualities of the materials furnished, or the workmanship executed. He is not in any way responsible for the execution or the solidity of the work; but it is his duty to make a report, if he observe that the laws either of the art of building, or even the municipal laws, have been violated in such a manner as to involve serious consequences. The obligation in this case is simply to render strict justice to both parties.

Fourthly.—"Of the position of builders under an architect's orders; and also their responsibility as to materials, &c."

Occasionally architects, renouncing the consideration due to their profession, become builders. At times, also, the builders become architects; but this rarely occurs for constructions of importance, because the time and attention required for the preparation of the plans are greater than a builder can afford to bestow. In either case, the party who accumulates the functions contracts the responsibilities which attach to both.

Although the direction of the works be confided to an architect, the builder or contractor is still bound to the proprietor by a contract for the hire of his services,—which is defined by the article 1710 of the Civil Code as an engagement to execute a work upon receiving a sum of money. This contract may be made with the understanding that the contractor shall only give his labour and talent; or, he may agree to furnish the materials.—Article 1787.

When an architect is engaged to direct the works confided to a builder or contractor, the engagement of this latter implies, at least, the condition that, in all cases in which he can legally do so, he is faithfully to follow the directions he may receive, so that the building may be executed as designed. In order that the builder be perfectly secure against any claim in consequence of changes introduced during the execution of the works, it is necessary for him to have all such alterations ordered in writing. Any verbal orders given by the architect are only supposed to warrant the builder in so far as they are conformable to the rules of art; and, by extension of this principle, if a builder execute any work without plans, specifications, or written instructions, he alone is responsible during the ten years of the guarantee. In fact, nothing existed to prevent his taking proper measures to secure the stability of the work; the consequences of the failure, then, justly fall upon him. Should the architect, in his plans or specifications, demand any new mode of construction, or indicate any works likely to involve an infraction of the rights of the neighbourhood, or of the municipal or police regulations, it is the duty of the builder to point out the objections to their adoption. His responsibility is covered if he obtain a distinct written order *ad hoc*, mentioning that it was given with the express intention of safeguarding his rights. The intervention of the proprietor is also necessary, for his claim against the builder cannot be alienated without his consent; and even after all these precautions, the builder is still liable to be pursued by the municipal authorities in case the works contain infractions of their laws, either as affecting public health or the security of the buildings. No private convention, in fact, is allowed to interfere with the public rights: *Privatorum pactis juri publico derogari non potest*. Nor can the builder plead ignorance of these laws, for he is bound to know all the obligations attached to his position, amongst which the municipal regulations are the most important as well as the most easily ascertained. The old Roman law, which in this case is still retained, lays down the principles that "*magna negligentia culpa est*," and "*culpa lata est, non intelligere quod omnes intelligunt*." The public authorities, therefore, can pursue the parties who are the most likely to be in a position to insure the fulfilment of their regulations; but they still retain a claim against all the parties concerned in the infractions. A builder should, then, in self-defence, distinctly refuse to execute any works which may place him in such positions.

The responsibility of the builder, as to the quality of the materials supplied, results necessarily from the condition of his undertaking with the proprietor. The reception by the architect in nowise exonerates him; for it might happen, either that the architect did not superintend the execution with sufficient attention, or that he had been deceived, or that he had entered into an understanding with the builder. In neither of these cases would it be just that the proprietor should suffer from the faults of those in whom he places his confidence. The law, then, gives him a claim upon both architect and builder, so that he may pursue the party who is the more likely to be in a position to insure his obtaining speedy justice. Should the bad quality of the materials be such as the ordinary care of the architect could not detect, the latter has a claim upon the builder; for he is, in fact, in the condition of a merchant, who, by article 1641 of the Civil Code, is responsible for the hidden defects of the goods sold. But the conditions under which a builder contracts differ so far from a common sale, that, as he undertakes to execute work, he is responsible not only for the hidden, but also for the apparent defects of the materials necessary for the completion of the building.

If the proprietor furnish any portion of the materials to be employed, and the builder recognize in them such defects as to render them unfit for the purpose, he is bound to call the attention of the proprietor thereto; nor is he released from his responsibility unless he obtain a written order containing a discharge therefrom.

We must break off here, till next week.

Caution to Brickmakers.—At Wolverhampton lately, the owner of a brickyard was fined in the mitigated penalty of 50*l.* for allowing his tenant or manager to remove bricks to the kilns before the proper duty had been levied on them. The owner was quite ignorant of the fraud, being supplied by the party making the bricks at a certain rate per 1,000 including duty. In another case of a similar kind nearly 14,000 bricks were forfeited, and a penalty of 50*l.* inflicted.